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Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families
Twenty-fourth session

Summary record of the 314th meeting
Held at the Palais des Nations, Geneva, on Thursday, 14 April 2016, at 3 p.m.

Chair: Mr. Brilliantes

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The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 73 of the Convention (*continued*)

Initial report of Turkey (CMW/C/TUR/1; CMW/C/TUR/QPR/1)

1. *At the invitation of the Chair, the delegation of Turkey took places at the Committee table.*

2. **Mr. Çarıkçı** (Turkey), introducing his country's initial report (CMW/C/TUR/1), said that, in the 25 years since the adoption of the Convention, there had been a global upsurge in human mobility, partly owing to conflicts and other destabilizing factors. More States parties to the Convention were therefore needed to ensure greater geographical coverage and protection for migrant workers, particularly in Europe and Asia. Moreover, wider ratification of the Convention was crucial to the protection of the rights of the more than 6 million Turkish migrants working abroad, predominantly in European countries.

3. In Turkey, respect for human rights was an inviolable principle of the Constitution. Moreover, an ambitious package of reforms had been conducted over the previous 15 years, including several amendments to the Constitution and the introduction of new legislation. In particular, the landmark Act on Foreigners and International Protection set out the basic legal framework in respect of foreigners, applicants for international protection and regular and irregular migrants and had been adopted following a transparent, participatory process involving national and international stakeholders, including the Office of the United Nations High Commissioner for Refugees (UNHCR) and the International Organization for Migration (IOM). The Directorate-General for Migration Management had been established pursuant to the Act, with responsibility for, among other activities, implementing migration-related policies and strategies and effecting procedures related to the entry, residence and exit of foreigners, the temporary protection of refugees and the protection of victims of human trafficking. Lastly, a National Action Plan on Migration and Asylum had been developed and several projects had been launched jointly with other countries to enhance the capacity and readiness of relevant institutions.

4. In the area of access to justice, several new bodies had been created, chief among them the National Human Rights Institution of Turkey, which complied with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) and was in the process of upgrading its accreditation status, and the Ombudsman Institution, which was authorized to receive complaints from foreign nationals. While the Ombudsman Institution had no authority to intervene in migration-related decisions taken by an official body, it could make suggestions for a decision to be withdrawn if it found that the rights and interests of the persons concerned had been violated. Civil servants, the security forces and members of the judicial branch had all received human rights training, while awareness-raising activities had been expanded to include students, civil society and the public at large. Input from civil society organizations had been taken into careful consideration throughout the process of reform.

5. The ongoing conflict in the Syrian Arab Republic had triggered a humanitarian tragedy. More than 11 million Syrians had been compelled to flee their homes and 4.6 million had sought shelter in neighbouring countries. Turkey had maintained an "open door" policy for Syrians since 2011 and had strictly complied with the principle of non-refoulement. As a result, it was currently hosting more than 2.7 million Syrian refugees, in addition to around 300,000 Iraqis, which made it the nation hosting the highest number of refugees in the world. Turkey had thus mobilized all its resources and capabilities on behalf of the international community in order to save lives, provide Syrian refugees with a safe haven and improve their living conditions by such means as allowing them to enter the

labour market. Some 270,000 Syrians were accommodated in 26 temporary protection centres, where they were provided with food, health-care services, education, psychological support and various training and social activities. Those living outside such centres also had access to free health care and education. Despite various projects launched by the Ministry of National Education, however, educational opportunities were inadequate for more than half of the 750,000 Syrian children in Turkey. More schools, classrooms and teachers were needed.

6. The cost for Turkey of securing the well-being of Syrian refugees so far amounted to US$ 10 billion, a figure that did not include those living outside the country's temporary protection centres. Contributions from the international community had not, however, reached the amounts expected. The responsibility for coping with the Syrian humanitarian crisis could not be left to neighbouring countries alone; the international community needed to pool its efforts for the sake of a common future. Moreover, displaced persons needed more than an emergency response: they needed prospects for the future. The resettlement of Syrians, for example, thus gave the international community the opportunity to share the responsibility for Syrians more equitably.

7. The recent agreement adopted between the European Union and Turkey would be important in stemming the flow of irregular migration across the Aegean Sea. At its core was the humanitarian objective of preventing the loss of life, crushing migrant smuggling networks and replacing irregular with regular migration. On top of the already significant reduction in sea crossings since the start of 2016, there had been a dramatic decline in numbers since the agreement had entered into force. The return of irregular migrants to Turkey had begun only very recently, as had the resettlement of Syrian refugees to the European Union, which had been put into practice in accordance with the agreed "one in, one out" formula that was in compliance with international standards. It was hoped that, if effectively implemented by both parties, the agreement would quickly yield results and stop the irregular crossings entirely.

8. **Mr. Ceriani Cernadas** (Country Rapporteur), after commending the State party for its comprehensive initial report, said that the Committee recognized that Turkey faced a particularly daunting challenge as a country of origin, transit and destination. The State party was currently home to more than 2.7 million Syrian refugees, which dwarfed the numbers accepted by other neighbouring countries or the European Union. In that connection, he wished to know what measures the Government had taken to reduce and ultimately prevent the deaths of migrants and their families in Turkish waters; whether any search and rescue operations or border management strategies had been launched to staunch the number of sea crossings and drownings; and whether, and if so how, the bodies of those who had died at sea were identified and repatriated.

9. There seemed to have been a marked increase in the number of migrants and asylum seekers being held in detention and in the quantity of removal centres being constructed. In combination, those facts suggested a shift in emphasis towards the deprivation of liberty of migrants until it could be determined whether they were in an irregular situation. He therefore wished to know how many migrants had been arrested and detained in the first quarter of 2016 and whether they were held in detention centres or removal centres. Referring to the Committee's general comment No. 2 on the rights of migrant workers in an irregular situation and members of their families, he asked what alternatives to detention were available; what measures were in place to uphold a child's right not to be detained and yet remain with his or her family; how long, on average, individuals were held before either being expelled or granted permission to remain; and whether or not there was a maximum period of detention. Citing reports of substandard conditions and abusive practices in those centres, he wondered what action was taken to hold perpetrators of abuse to account and whether free legal aid was available to victims.

10. He wished to know whether civil society organizations had been consulted prior to the conclusion of the agreement with the European Union or were participating in its monitoring and whether the Government was confident that the terms and implementation of that agreement did not contravene the Convention in any way. At first glance, it appeared that the agreement focused solely on moving people around rather than finding a durable resolution. How exactly did Turkey and the European Union intend to tackle the root causes of the influx of migrants from countries such as the Syrian Arab Republic, Eritrea and Pakistan?

11. He would also be interested to hear about the process undertaken once migrants were returned to Turkey from the European Union. In particular, he wished to know whether such persons were held in detention centres or open facilities and whether they could apply for asylum or work permits upon their return to Turkey. In the same vein, he asked whether Turkey was considering withdrawing its declaration of geographical limitation to the 1951 Convention relating to the Status of Refugees; whether migrants facing expulsion could be returned to countries of origin where they might be at risk; and how the Turkish Government assessed the merits of each case and ensured that its decisions complied with the principle of non-refoulement. In that connection, he was concerned at reports that individuals, including Iraqi and Afghan nationals, were being turned back at the Syrian border, denied due process and prevailed upon to return to their own countries. Reports that security forces had fired gunshots at migrants crossing the border from the Syrian Arab Republic were also of grave concern.

12. He wondered whether an informal work relationship might not be grounds for the granting of a work permit as an alternative to the expulsion of migrant workers in an irregular situation. He also wondered whether any unaccompanied minors had been expelled from the country and whether there was a process in place or envisaged to ensure that the best interests of the child were fully taken into consideration, irrespective of his or her migrant status. Statistics on the number of expulsions, citing the reason for expulsion and disaggregated by age, sex and country of origin, would also be appreciated.

13. While the temporary protection mechanism in place for Syrian refugees was commendable, he wished to know what plans were envisaged for a solution in the medium to long term and whether the Government had considered providing such refugees with more permanent residence status and the opportunity for family reunification. As for the National Action Plan on Irregular Migration for the period 2015-2018, he wondered whether a more holistic approach might be taken by enlisting the help of key stakeholders in the areas of justice, health, education and social security.

14. **Mr. Kariyawasam** (Country Rapporteur) said that, as a candidate country for accession to the European Union, Turkey could serve as a beacon for wider ratification of the Convention in Europe. He wished to know whether the provisions of the Act on Foreigners and International Protection were in line with the Convention and where the Convention ranked in domestic law. While welcoming the move to enable Syrian refugees to join the labour market and thereby become productive members of society as migrant workers, he wondered whether they were accorded the full range of rights enshrined in the Convention, in particular trade union rights and equal treatment in respect of remuneration. He would, moreover, be interested to know how the Government ensured that the rights of domestic workers and migrant workers in an irregular situation were also safeguarded.

15. As for the large number of children born to refugees and migrant workers in Turkey, he asked what measures the State party had taken to enable the registration of births and to ensure that children could hold the nationality of their country of origin. Noting that Syrian refugees were given Turkish language lessons, he wondered whether a similar arrangement was available for all migrant workers, irrespective of their origin. Concerning work permits, he wondered whether there were plans to amend the system of sponsorship for work

permits so as to enable migrant workers to freely alter their remunerated activity. Information on the rights of seasonal workers in the country and their current situation would also be appreciated.

16. He asked what consular services were provided to Turkish migrant workers and members of their families abroad, including those in an irregular situation, and whether Turkey had entered into any bilateral agreements to ensure the recognition and transfer of social welfare and pensions. More information on how readmission agreements worked in practice for Turkish migrants who faced expulsion back to Turkey would also be welcome.

17. Although the Committee had received no reports of the phenomenon, he wondered whether child migrants were at risk of exploitation in the agricultural and textile sectors and, if so, what action the Government had taken to eliminate it.

18. There seemed to be little in the way of civil society organization participation in Turkey, which, in the light of current events, was a matter of concern. In that connection, he would be interested to know what strategies were in place to ensure full implementation of the Convention and whether a complaints mechanism was being developed with input from civil society. Lastly, he asked whether the State party intended to withdraw its reservations and declarations regarding articles 15, 40, 45 and 46 of the Convention, make the declarations provided for in articles 76 and 77 recognizing the competence of the Committee to receive individual complaints and ratify, among others, the International Labour Organization (ILO) Migration for Employment Convention, 1939 (No. 66).

19. **Ms. Landázuri de Mora** said that the State party's recent hosting of the Global Forum on Migration and Development, where wide-ranging discussions on migration-related issues had taken place between representatives of governments, international organizations and civil society organizations, was to be commended. Regarding foreign nationals alleged to have committed criminal offences in Turkey, she asked what safeguards were in place to ensure that they had access to due process, legal assistance, defence lawyers and, if necessary, interpreters. She wondered whether it was possible for an individual to serve a term of imprisonment in his or her country of origin following a criminal conviction. Regarding the large number of refugees and asylum seekers arriving in Turkey, she would be interested to know whether the Government intended to engage with the countries of origin in order to pave the way for a more lasting solution through peace talks. The experience of her own country, Ecuador, which had also faced an influx of refugees and migrants, indicated that opening a dialogue with the countries of origin was the only real avenue for achieving a long-term resolution.

20. **Ms. Dzumhur** asked whether the bill on the employment of foreigners incorporated the standards established in relevant ILO conventions. She wished to know whether the State party intended to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child and the International Convention for the Protection of All Persons from Enforced Disappearance.

21. She asked what was being done to promote the work of the National Human Rights Institution and the Ombudsman Institution in detention centres and how often the two institutions visited those centres. She wished to know how the State party ensured that the National Human Rights Institution operated in accordance with the Paris Principles.

22. With regard to the State party's efforts to prevent human trafficking, she would be grateful for further information on the situation as it related to gender, including data on migrants in Turkey disaggregated by sex. She wondered how the State party ensured that migrants in detention centres had contact with their families and how such migrants were provided with legal aid.

23. She asked how many persons had been readmitted under the agreement with Greece, and the more recent agreement with the European Union as a whole, and how many of those persons had been placed in detention. She would welcome further information about the practical implementation of the agreement concluded on 18 March 2016, including statistical data, and she asked whether the National Human Rights Institution was monitoring the process from a human rights perspective. Lastly, she wished to know more about the Government's cooperation with civil society and media organizations on spreading information about the Convention and the rights of migrants.

24. **Mr. Tall** said that he welcomed the adoption of the Act on Foreigners and International Protection and hoped it would serve as an example for other States parties in their efforts to protect the rights of migrant workers. He asked how the State ensured that the Act was in compliance with the Convention, whether there was any relevant case law and whether the national courts gave precedence to the Convention over the Act in the event of any discrepancy.

25. He asked whether the State party intended to ratify the ILO Migration for Employment Convention (Revised), 1949 (No. 97) and the ILO Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) in the near future. Noting that work permits and residence permits were separate documents in Turkey, he asked how the State handled situations in which a migrant worker held a valid work permit but an expired residence permit.

26. **Ms. Ladjel** asked whether the huge influx of migrants passing through Turkey in recent years was viewed as a phenomenon that promoted or hindered development. Noting that millions of migrants had returned to their countries of origin, she asked whether their return had been voluntary and what their motivation had been.

27. She asked whether the State party had sufficient means to temporarily house migrants in detention centres until a more permanent solution could be found, or whether it might be seen as preferable to turn people away at the border as a way of easing the pressure on those centres. Lastly, she asked whether the Government believed it might be possible to work in cooperation with neighbouring countries in the region to seek a solution to the migration issue.

28. **The Chair** noted that Turkey retained a geographic limitation to its ratification of the Convention relating to the Status of Refugees, under which only persons fleeing from events occurring in Europe were granted refugee status. He asked whether the delegation considered that limitation to be discriminatory and whether it was still implemented in practice. He asked whether the adoption of the Act on Foreigners and International Protection had resulted in any changes to the practice of restricting the movement of asylum seekers by requiring them to live in "satellite cities".

The meeting was suspended at 4.35 p.m. and resumed at 5.15 p.m.

29. **Mr. Çarıkçı** (Turkey) said that Syrian refugees were neither forced nor urged to return to Syria; those who returned did so voluntarily. The aim of the agreement concluded with the European Union on 18 March 2016 was to protect human dignity and save lives by obstructing the smugglers' business model and offering migrants an alternative to putting their lives at risk during irregular crossings. Its objective was purely humanitarian in nature.

30. Since the agreement's entry into force, the number of daily arrivals to the Greek islands had decreased dramatically. In 2015, more than 90,000 migrants in an irregular situation had been identified at sea by the Coast Guard, but those figures were now also in decline. The number of smugglers apprehended had increased from 115 in 2011 to 190 in 2015. As of 5 April 2016, a total of 52 had been apprehended in the current year.

31. Under the agreement, Turkey would take back persons in an irregular situation migrating to the European Union in exchange for the resettlement of Syrian asylum seekers in European Union countries, on a "one for one" basis. The agreement provided for, inter alia, the registration and processing of migrants arriving in the Greek islands by the Greek authorities. It was implemented in cooperation with UNHCR and in line with established vulnerability criteria.

32. A by-law adopted on 7 April 2016 provided that Syrians who had entered Turkey after April 2011, crossed irregularly to the Greek islands and then been readmitted to Turkey after the entry into force of the agreement could be granted temporary protection once again upon request. Recent media reports alleging that Turkey had forcibly returned Syrian asylum seekers had no basis in reality. For more than five years Turkey had been implementing an open door policy for Syrians fleeing the war in their country. In some provinces, Syrians outnumbered Turkish nationals.

33. Turkey highly valued international and regional cooperation on migration issues. It had recently chaired the Global Forum on Migration and Development and the Budapest Process, and it worked closely with UNHCR and other international organizations with a view to strengthening protection mechanisms for migrants and improving public perceptions of migrants. Turkey had signed readmission agreements with the European Union, the Syrian Arab Republic and a number of other countries, and further agreements were currently being negotiated.

34. Unfortunately, it was not possible to solve the current migration issue through cooperation with the Syrian regime. Given the extreme violence that it used against its own citizens, the regime was clearly not interested in cooperation. The logo of the Turkish Directorate-General for Migration Management included the image of a swallow, which was a migratory bird and represented freedom and faithfulness. Anatolia had been a land of migration and refuge for centuries, by which it had been enriched. As a country not just of transit but also of origin and destination in migration flows, Turkey was well aware of the ways in which migrants benefited the societies in which they lived.

35. **Ms. Ant** (Turkey) said that Turkey had taken extensive administrative and legal measures to combat human trafficking and to protect victims. It was a party to a number of relevant international instruments, such as the United Nations Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, and had amended its national legislation to bring it into line with those instruments. Until such time as a single framework law could be adopted, the Government had recently adopted regulations to serve as a legal basis for combating human trafficking. A department for the protection of human trafficking victims had also been established. The State carried out both a victim support programme and a voluntary and safe return programme for victims.

36. Shelters for female victims had been opened in three major cities in the country; there were currently 25 women staying at the shelters. A helpline for victims was operated in multiple languages, in cooperation with IOM, which had thus far led to the rescue of 182 victims. A national task force comprising representatives of government agencies and non-governmental organizations (NGOs) had been established in 2002 to combat human trafficking, and action plans on the subject had been adopted in 2003 and 2009. Sexual exploitation was the most common type of human trafficking in Turkey, most victims being from Eastern Europe or Central Asia. In 2015, a total of 119 trafficking victims had been identified, 87 of whom were women.

37. **Ms. Bilen** (Turkey) said that children born in Turkey to foreigners who had been granted temporary protection acquired the nationality of their parents at birth. Statelessness was therefore not an issue among that population group.

38. **Ms. Pekşen** (Turkey) said that asylum seekers who were deemed likely to move on from Turkey unlawfully were sent to detention centres for up to 6 months, which could be extended to 12 months if they refused to cooperate with law enforcement officials. The administrative decision to detain them was reviewed monthly. Persons held in detention centres were provided with three meals per day, comprising breakfast and two hot meals. Family rooms were provided to the extent possible. In centres where family rooms were not available, the authorities were working to improve the situation. Unaccompanied minors were not expatriated; rather, they were cared for by the Ministry of Family and Social Policies.

39. **Mr. Çarıkçı** (Turkey) said that not a single unaccompanied minor had been deported by his Government. Turkey, together with Mexico, was a main sponsor of a resolution on universal registration at birth, which it submitted to the Human Rights Council every two years.

40. **Mr. Ulutaş** (Turkey) said that foreigners convicted of a criminal offence could, upon request, be sent back to their country of origin to serve their sentence on the basis of a bilateral or multilateral agreement. If there was no such agreement with the State in question, the return could be carried out on the basis of the principle of mutuality.

41. **Mr. Kara** (Turkey) said that foreigners accused of a crime received the same treatment as accused Turkish citizens. If they did not speak Turkish, they were provided with the services of an interpreter free of charge and were informed that they had the right to choose their own legal counsel. If they could not afford legal counsel, then counsel was appointed for them free of charge. Like Turkish citizens, they could appeal a court decision against them to the Constitutional Court or the European Court of Human Rights.

42. **Mr. Ersöz** (Turkey) said that the rights of migrants working in the informal sector were respected, including the right to file a lawsuit. Those who had been granted temporary protection or who were protected under international conventions were not expelled from the country, even if they were caught working without a permit. Migrants in a regular situation participated in the labour market under the terms set out in articles 25 and 26 of the Convention and had the same rights as other workers with respect to social security, remuneration, etc. In order to obtain a work permit, domestic workers must first sign a labour contract. Such contracts were important tools for protecting workers' rights, as they guaranteed minimum standards and set out the workers' rights and remuneration in writing. Work permits also served as residence permits for the duration of their validity and there was no need to obtain a separate residence permit.

43. **Mr. Sevim** (Turkey) said that the work permit system was very liberal and was in line with European Union practices. There was no sponsorship system for foreign workers. A complaint mechanism was available to workers who believed they had been mistreated or exploited and employers who abused the system were subject to very strict penalties.

44. Turkish migrants in the European Union held almost all the same rights as European Union citizens, with just a few minor exceptions. Turkish consular services were proactive in reaching out to Turkish citizens abroad on a regular basis to inform them about their rights. Social security agreements had been signed with some 30 countries and enabled Turkish citizens to receive and transfer their pensions. They could also receive retirement benefits from the Turkish Government, even if they had never lived in the country.

45. Turkish nationals living abroad were encouraged to obtain citizenship from their country of residence. In cases where that country did not allow dual citizenship, the Turkish

Government issued the individuals with identification cards that entitled them to the same rights as Turkish citizens, apart from the right to vote and to work in the civil service. Turkish citizens who returned to the country after living abroad were exempted from paying import tariffs on vehicles and professional equipment. The Government helped Turkish citizens living abroad to establish their own businesses; it also provided education grants for their children and facilitated their enrolment in Turkish universities. Agreements were in place with many countries to prevent double taxation. Interministerial working groups had been established to assist Turkish nationals abroad and they could also seek assistance from consulate officials.

The meeting rose at 6.05 p.m.